

NOTICE OF FINAL DECISION
OF BOARD OF APPEALS

RE: Case No. V-23-16 Karen Ruiz

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: April 27, 2016.

CERTIFICATE OF SERVICE

This is to certify that on May 2, 2016, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

(Original Signed)
Anne F. Carter
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting
Beltsville Citizens Association

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioner: Karen Ruiz

Appeal No.: V-23-16

Subject Property: Lot 7, Block 1, Montgomery Estates Subdivision, being 4208 Wicomico Avenue,
Beltsville, Prince George's County, Maryland

Witness: Giovanni Lopez

Heard and Decided: April 27, 2016

Board Members Present and Voting: Albert C. Scott, Vice Chairman
Anastasia T. Johnson, Member

RESOLUTION

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting a variance from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve a variance from Section 27-120.01(c) of the Zoning Ordinance, which prescribes that no parking space, parking area, or parking structure other than a driveway no wider than its associated garage, carport, or other parking structure may be built in the front yard of a dwelling in the area between the front street line and the sides of the dwelling. Petitioner proposes to validate and obtain a building permit for new driveway area in the front yard. A waiver of the parking area location requirement is requested.

Evidence Presented

1. The property was subdivided in 1956, contains 10,500 square feet, is zoned R-R (Rural Residential) and is improved with a single-family dwelling, driveway and shed. Exhibits ("Exhs.") 2, 3, 6 and 7. The existing dwelling was built in 1958. Exh. 6.

2. Petitioner would like to obtain a building permit for a 10' x 31.5' driveway extension (Exh. 2), but a variance is required. Since the driveway extension will be located in the area of the front yard prohibited by Section 27-120.01(c) states that construction of driveways not leading to a carport or garage is not permitted in the area of the front yard between the front street line and the sides of the dwelling. Since part of Petitioner's driveway is located in this area of the front yard, a waiver of the parking area location requirement was requested. Exh. 10.

3. A carport on the left side of the house was converted into living space. Exhs. 2 and 5.

4. Petitioner testified that the County left a note on her door informing her that a building permit was required for the driveway.

5. Giovanni Lopez testified that the two properties next to Petitioner's property have double driveways. Exhs. 8(A) thru (D).

6. Petitioner further testified that the left portion of the driveway (leading to the carport) already existed in 2011. She stated that she enclosed the carport in 2013 (*see* Exh. 5) and had the driveway widened in January 2016 to park four vehicles off the street because of car and school bus traffic on Wicomico Avenue. Exhs. 4(A) thru (C). She explained that the driveway was not widened towards the left side of the property because of bushes located between her property and the adjoining property. Exh. 8(F).

7. The Historic Preservation Section of M-NCPPC commented that the subject property is located within 500 feet of Historic Site 61-011 McLeod-Forrester House and that the variance request will have no effect on Historic Sites, Historic Resources or Historic Districts. Exh. 13

Applicable Code Section And Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the existing carport having been enclosed into living space, the existing driveway no longer accessing a parking structure but now being in front of part of the dwelling structure, the driveway also having been widened in front of the house without obtaining a building permit, the need for additional off-street parking area, and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Chairperson Mack absent, that a waiver of the parking area location requirement in order to validate and obtain a building permit for a 10' x 31.5' driveway extension in the front yard on the property located at Lot 7, Block 1, Montgomery Estates Subdivision, being 4208 Wicomico Avenue, Beltsville, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2.

BOARD OF ZONING APPEALS

By: (Original Signed)
Albert C. Scott, Vice Chairman

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.